

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Sprint Petition for Declaratory Ruling) **CC** *01-92*
Obligation of Incumbent LECs to Load) ~~WT~~ Docket No. ~~02~~
Numbering Resources Lawfully Acquired)
and to Honor Routing and Rating Points)
Designated by Interconnecting Carriers)

Reply of Triton PCS License Company, L.L.C.

Triton PCS License Company, L.L.C. ("Triton PCS"), by its attorneys, hereby submits its reply to the Opposition of BellSouth Corporation and BellSouth Telecommunications (collectively, "BellSouth") in the above-referenced proceeding. For the reasons described below, the Commission should issue the declaratory ruling requested by Sprint Corporation forthwith.¹

The Opposition argues that the Sprint Petition should be denied because (1) BellSouth is not currently preventing Sprint from loading NXXs; (2) BellSouth believes that intrastate tariffs should apply and, therefore, the issue should be resolved at the state level; and (3) the issue is part of the Commission's existing intercarrier compensation proceeding.* None of these reasons justifies denial of the Sprint Petition and, in fact, there are significant reasons for the Commission to grant the relief requested by Sprint.

First, Commission action in this matter is warranted because this is not just a dispute between Sprint and BellSouth. BellSouth's policies concerning calls to "out of territory" NXX

¹ Sprint Corporation Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, filed May 10, 2002 (the "Sprint Petition").

² Opposition at 2, 3, 4.

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codes are set on a region-wide basis, and so affect all carriers that interconnect with BellSouth in a nine-state territory. Indeed, as BellSouth acknowledges, Sprint is not the first carrier to bring this issue before the Commission: Both Triton PCS and Nextel raised concerns about BellSouth's treatment of NXX codes lawfully activated by wireless providers in the recent Georgia-Louisiana Section 271 proceeding.³ In other words, this matter is of broad concern, affecting multiple carriers in multiple states. Consequently, it is a significant national matter that deserves the Commission's attention.

Second, there is no reason for this matter to be considered by the states because it is uniquely federal. The issues raised by Sprint specifically are federal issues because they involve wireless interconnection and violation of an existing federal rule. As the Eighth Circuit has held, the Commission determines interconnection policy and rules for commercial mobile radio services, not the states. *Iowa Utilities Bd. v. FCC*, 120 F.3d 753, 800 n.21 (8th Cir. 1997) (holding that Section 332 gives the FCC full power over wireless interconnection), *rev'd in part AT&T v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) (on appeal of other issues). Moreover, Sprint and other affected carriers seek confirmation from the Commission that BellSouth is bound by Section 51.701(b)(2) of the rules, which states that all traffic "that, at the beginning of the call, originates and terminates within the same Major Trading Area" shall be treated as local traffic? Interpretation of this rule is entirely a matter for the Commission, and state commissions have no authority to determine BellSouth's compliance or noncompliance with its obligations under this federal provision. In this context, it does not matter that BellSouth is relying on state tariffs.

³ See Joint Application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana, *Memorandum Opinion and Order*. CC Docket No. 02-35, FCC 02-147 (rel. May 15, 2002). ¶ 207.

⁴ 47 C.F.R. § 51.701(b)(2). Notably, this provision does not contain any exceptions for traffic that originates or terminates outside an incumbent LEC's franchise area.

The only question is whether BellSouth's actions, under tariff or otherwise, violate a federal obligation.

Similarly, BellSouth's claim that this issue is **part of** an ongoing proceeding is **irrelevant**.⁵

The possibility that the Commission might change its rules has no effect on BellSouth's obligation to follow the current rules while they remain in place. Contrary to BellSouth's argument, granting Sprint's petition does not require the Commission to adopt any "new policy." Rather, the Commission need only confirm that its existing rules mean what they say.

Finally, it would be administratively inefficient for the Commission, as BellSouth suggests, to rely on state commissions to address the concerns described by Sprint, Triton PCS and Nextel. It would waste time and resources for BellSouth and interconnecting carriers to repeat their arguments from state to state across the BellSouth region. Moreover, allowing these issues to be litigated in nine different states would make it highly likely that there would be inconsistent results, which would necessitate Commission intervention to ensure a uniform national policy.

⁵ BellSouth's position **also** is incorrect. The intercarrier compensation proceeding does not address the question of a carrier's obligation to interconnect, which **is** the central issue here. **It** addresses only how carriers will **be** compensated.

⁶ Opposition at 4

For all these reasons, Triton PCS License Company, L.L.C. respectfully requests that the Commission grant the Sprint Petition forthwith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Vicki Lynne Lyttle, a legal secretary at Dow, Lohnes & Albertson, PLLC do hereby certify that on this 6th day of June, 2002, copies of the foregoing “Reply of Triton PCS License Company, L.L.C.” were served as follows:

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